Planning and Zoning for Mixed Use: Balancing Redevelopment Vision with Economic Reality in Prince George's County, Maryland

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INTRODUCTION

In recent years, mixed use development has become an increasingly popular planning tool that reflects a number of societal concerns, such as environmental sensitivity, increasing costs of housing and transportation, a greater emphasis on our health, and a growing desire to know and connect with neighbors.

While these are laudable goals, the actual construction of a mixed use development that satisfies societal, planning, and financial objectives is not easy. Both the planning and zoning of properties appropriate for these goals, and the approval of plans to implement the proposed development, epitomize the old maxim, "The devil's in the details."

This is certainly the case in Prince George's County, Maryland. Both the citizens and the government in this county have demonstrated a determination to create communities at appropriate locations that are pedestrian-oriented, include high quality design and materials, are environmentally sensitive, and allow more time for residents to spend with family and friends, which results in less time spent traveling to work or for basic shopping and recreational needs.

Using Prince George's County as an example, the following case studies will attempt to illustrate not only the value of mixed use as a planning and zoning tool, but also the importance of tempering a vision of future redevelopment with market reality. The need for flexibility in using the tool begins with the implementation of mixed use zoning when public goals and market considerations conflict.

THE PATTERN OF DEVELOPMENT IN THE COUNTY

Prince George's County is a large jurisdiction, with a population of over 800,000 and encompassing almost 500 square miles, extending eastward from the northeastern and southeastern borders of the District of Columbia to the Patuxent River. It is bounded by Montgomery and Anne Arundel Counties to the north, and the Potomac River and Charles County to the south. The approximate center portion of the county is traversed

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by the Capital Beltway (I-495), from its border with Montgomery County to the Woodrow Wilson Bridge, which crosses the Potomac River into northern Virginia.

In the late 1940s, 1950s, and the 1960s, Prince George's County, like much of postwar America, experienced the rise of residential subdivisions, many of which included small but comfortable homes that were built relatively close to one another, and most of which had front, back, and side yards.

Within this same time period, the county also saw the construction of thousands of units of multifamily rental housing, generally in the form of garden apartments and highrises, most of which were located in the area of the county closest to the District of Columbia border.

Many towns in Prince George's County in those years had "main street" commercial areas, which tended to include individual stores and businesses, often along the county's major transportation corridors. By the late 1950s and early 1960s, however, there was an increase in the development of strip commercial centers—rows of attached stores with large paved areas of common parking in front of the centers. This was followed by the advent of enclosed malls.

The zoning ordinances and master plans then in effect generally reflected these types of development, with residential, commercial, and employment zones by and large located in separate areas. The residential regulations required certain minimum lot sizes and yard setbacks for homes, and commercial and employment regulations included certain minimum parking requirements for those uses. These ordinances reflected the increasing dependence upon the automobile as the most reasonable means for people to travel from their homes to work, shop, and play.

While this pattern began to change somewhat in the late 1970s and 1980s with the introduction of comprehensive design zones (CDZs)—similar to planned unit developments in other jurisdictions—these zones were not intended to provide for a true mix of uses (residential, commercial, and employment). Rather, they allowed a greater mixture of different types of housing within a residential CDZ such as single-family detached and townhomes, to also include some supportive recreational uses); or allowed some retail and office uses within a commercial CDZ; or office and/or light industrial uses in a planned office/industrial park within an employment CDZ, which could possibly also include some supportive commercial uses as well (e.g., restaurants).

In the 1990s, there was an increasing sensitivity to and awareness of environmental issues nationally, along with an increasing concern with "sprawl," which generally refers to development in areas requiring new infrastructure, such as schools, roads, water and sewer lines, etc. This gave rise to the concept of "Smart Growth," popularized in Maryland by then Governor Parris Glendening. This concept promoted higher density development in areas of existing infrastructure, which were often areas that had fallen into disrepair and were ripe for redevelopment.

Within Prince George's County, the area targeted for Smart Growth was generally located between the Capital Beltway and the District of Columbia border (often referred to as "inside" the Beltway). By virtue of the existing infrastructure, the higher degree of residential density (many single-family detached homes on small lots and many apartments), the proximity of commercial areas to those residential areas, and its proximity to the District of Columbia border, this area had more of an urban character than most of the area "outside" (north and east) of the Beltway.

The development of this area as a mixed use urban environment was further justified by the existence of a number of Metrorail stations inside the Beltway, all of which are owned and operated by the Washington Metropolitan Area Transit Authority (WMATA) and are part of the Washington Metrorail system (Metro).

By the 1990s, motor vehicle traffic was increasing in many metropolitan areas, and Washington was no exception—morning and afternoon rush hours saw a greater number of traffic jams on the Beltway and other transportation corridors in the region. The use of mass transit in the Washington metropolitan area was encouraged and promoted as a means to reduce this growing problem, and mixed use development on properties in the vicinity of Metro stations was seen as a logical means of doing so.

MIXED USE ZONING AND THE GENERAL PLAN

Zoning is a planning tool that gives local governments control over the way in which we live—not in the sense of what we do with our lives, but, rather, where we live, work, shop, and play. The zoning ordinance, subdivision regulations, general plans, and master plans adopted by a local government collectively reflect and direct the character—and vision—of that jurisdiction. As with any good recipe that depends upon just the right combination of ingredients, any successful development depends upon the right mix of law, public policy, and politics, and this is especially so in the planning and development of a mixed use development.

Mixed use zoning had existed within Prince George's County since the mid-1980s and a number of properties near certain Metro stations and major transportation interchanges were zoned as such. While some development occurred pursuant to this zoning, it was not until the late 1990s and the early 2000s that the concept of mixed use development became a focus of attention as a key method of implementing Smart Growth.

This type of development was viewed as a means of creating new and more livable communities, generally in areas already urban in character and/or near transit stations or major transportation interchanges. These communities were intended to be developed pursuant to a cohesive plan that would:

- Incorporate a high density of residential homes (often townhomes and/or multifamily condominiums or apartments);
- Utilize high quality site plans, landscaping, and architecture;
- Include offices, restaurants, and retail establishments to serve the residents in the community;
- Encourage pedestrian connectivity through a series of wide sidewalks and trails throughout the community, and as part of a larger pedestrian network within the area;
- Provide recreational opportunities for the residents within walking distance, or otherwise near their homes; and
- Include places for people to gather—all to create a "sense of place."

In 2002, Prince George's County adopted a new General Plan, which divided the county into three "tiers" of development—the Rural

Tier (generally east of U.S. Route 301), the Developing Tier (generally between the Capital Beltway and the Rural Tier), and the Developed Tier (generally between the Capital Beltway and the District of Columbia border).

Within the General Plan, one of the stated goals for the Developed Tier was to "[p]romote transit-supporting, mixed-use, pedestrian-oriented neighborhoods," and one of the stated policies was to "[e]ncourage medium to high density, mixed-use, transit- and pedestrian-oriented development."

While mixed use development was also encouraged in the Developing Tier, and mixed use zoning was, in fact, imposed in certain areas outside of the Beltway, it was not applied as frequently or as consistently as it was in the Developed Tier subsequent to the 2002 General Plan through various master and sector plans, implemented through the accompanying comprehensive rezoning. This type of zoning was applied to areas not only near the Metro stations, but also to other areas along the major transportation corridors within the Developed Tier, many of which were in need of redevelopment and revitalization.

IMPACTS OF MIXED USED REZONING ON EXISTING DEVELOPJMENT: FLEXIBILITY HELPS

Within the county, there are four mixed use zones: M-X-T (Mixed Use-Transportation), M-U-I (Mixed Use-Infill), M-X-C (Mixed Use-Community), and M-U-TC (Mixed Use-Town Center). With the exception of the M-U-TC Zone, which can only be requested by the Planning Board with the concurrence of the District Council and any municipality that may lie within the proposed M-U-TC Zone, all other mixed use zones can either be applied for by one or more property owners, or the zones may be imposed by the Prince George's District Council (the governing body of the county when it sits on zoning matters) through a comprehensive rezoning of large areas of the county.[1]

If a rezoning application is submitted by one or more property owners, they must demonstrate satisfaction of certain legislative criteria to justify the rezoning. The application will be evaluated by the staff of the Maryland-National Capital Park and Planning Commission ("M-NCPPC"), hearings will be held before the county's Planning Board and Zoning Hearing Examiner, and there will be a hearing and final decision by the District Council.

If, however, the proposed rezoning to a mixed use zone is part of a comprehensive rezoning initiated by the District Council, the justification for the rezoning will generally be discussed as part of the accompanying master plan or sector plan, which will reflect the county's proposed vision for the area of the master or sector plan under consideration.

It is axiomatic that a proposed development can not be financed and constructed unless there is a market to support it, and a mixed use development is no exception. If a property owner, often in conjunction with a developer as a contract purchaser, applies for a mixed use zone on certain property, the property owner and/or developer will have determined the existence of a market sufficient to obtain financing for the development and construction costs.

When proposed by the local government through a comprehensive rezoning, however, the existence of a market for that proposed development, or the lack thereof, is not the primary focus of the government at the time it makes this decision. The rezoning of certain properties to a mixed use zone is reflective of the county's future vision for that area.

In this situation, the decision of the county to rezone properties to a mixed use zone, and the manner in which the rezoning occurs, can significantly impact the future of existing development upon properties zoned in this manner. The following two examples help to illustrate this point.

THE LANDOVER CROSSING SHOPPING CENTER

In 2008, Prince George's County initiated the Landover Gateway Sector Plan and Sectional Map Amendment (SMA). This area is located near the center of the county inside the Capital Beltway at its interchange with Landover Road in the Developed Tier. It is located near (and includes a portion of) Fed Ex Field, home of the Washington Redskins football team. The area is dominated by the site of the former Landover Mall, an 80-acre property which, in its day, was among the largest enclosed malls within the Washington Metropolitan Area.

For a number of reasons, the mall fell on hard times, and was ultimately demolished, leaving only a freestanding Sears store upon the property. The Landover Crossing Shopping Center is located across Landover Road from the Landover Mall property and consists of approximately 19 acres. This is not a mall but, rather, a strip shopping center that had existed at this location for many years and which also includes one freestanding building on a pad site within the parking lot of the center.

At the time the Landover Gateway Sector Plan/SMA was initiated, the Landover Crossing property was zoned C-S-C, the basic retail commercial zone within the county. The shopping center on this property included approximately 185,000 square feet of retail space, but at the time of the consideration of this plan, much of it was vacant. Through this Sector Plan and comprehensive rezoning, this property was proposed to be rezoned to the M-X-T (Mixed Use-Transportation) zone.

While the owners of the Landover Crossing property believed that there could be a market for mixed use development at this location at some point in the future, they also believed that it was likely to be many years away. The Landover Gateway Plan itself, in fact, labeled the proposed redevelopment of the shopping center on this property as a "mid-term" development, meaning that it was not projected to occur for a period of 10 to 20 years after the plan's adoption. The M-X-T zone allows a wide range of retail uses permitted as a matter of right, and thus the owner was not likely to lose much, if any, flexibility in its ability to lease, or re-lease, existing space within the center. If, however, the owner found a potential lessee that desired to improve and enlarge the existing strip center, demolish and rebuild the existing pad site, or create a new pad site upon this property, it could not do so under the M-X-T zone.

Any construction beyond the limits of the buildings that existed on the property as of the date it was formally placed in the M-X-T zone would require the approval of both a conceptual site plan and detailed site plan by the Prince George's County Planning Board and District Council. These plans would require a finding that the proposed development conformed to the purposes of the zone, which would require the inclusion of uses other than retail (e.g. office, residential, hotel, etc.), for which no market may exist at that time.

Aside from cosmetic changes to the existing buildings upon the property, a rezoning of the property to the M-X-T zone could thus prevent the owner from being able to take advantage of potential opportunities to invest in an upgrade of the retail development on this property. The owner firmly believed that a market for a mixed use development upon this property was likely to occur for quite a number of years, certainly not before one or more of the following would occur: a) plans for a mixed use development on the Landover Mall property are at least approved, if not implemented; b) commitment of the local government to construct one or more public buildings or uses upon the property; and (c) funding appropriated for an expansion of mass transit to serve the properties in this area.

During the Planning Board's consideration of this Sector Plan and SMA, the attorney for the owner suggested that mixed use development for the Landover Crossing property could be noted in the Sector Plan as a desired goal for this property, while leaving the existing C-S-C zoning in place—thus establishing the projection for future land use, while not impeding the ongoing use, and potential upgrading, of the property. This proposal, however, was rejected by the Board.

The rezoning to the M-X-T zone was justified by one Board member as follows: "At some point you've got to start and I think this is a good starting point . . . . The interests of the public transcend the private interests. What is the public interest, the public good? The public good, the public interest is the M-X-T zone, not C-S-C, and I don't see putting this thing off 10, 20 years, it just doesn't make sense. I think we have to start it as soon as we can . . . ."

Through its decision to recommend the rezoning of the shopping center to the M-X-T zone, it must be concluded that in the end, the Board simply believed, to paraphrase a famous movie quote, "If you zone it, they will come." While ballplayers may rise from the dead in the movies, a market to support a mixed use development is not likely to so easily appear. The decision of the Planning Board was only a recommendation, but the District Council ultimately approved the rezoning to the M-X-T zone without further comment.

THE EASTGATE TRUST PROPERTIES

The second example of planning and zoning for mixed use development in the County involves the Port Towns Sector Plan and Sectional Map Amendment, initiated by the District Council in the spring of 2009.

The Port Towns area is centered around the Anacostia waterfront and encompasses four municipalities within Prince George's County (Bladensburg, Edmonston, Colmar Manor, and Cottage City), as well as certain unincorporated areas of the county, within the vicinity of the District of Columbia border. The major thoroughfares within this area, mainly Bladensburg Road, Annapolis Road, Kenilworth Avenue, and Baltimore Avenue (Route 1), are lined with commercial and industrial establishments, many of which are located in buildings that have been at these locations for many decades.

As with the Landover Gateway Sector Plan, the planners envisioned a mixed use community to be located generally along these major transportation corridors within the Port Towns area.

Unlike the Landover Gateway Plan, which simply proposed a rezoning of the major properties within that area to the M-X-T zone, the Port Towns Plan also imposed a development district overlay zone ("DDOZ") on most of the area included within the plan. The overlay zone is divided into different "Character Areas," each of which has its own table of uses and development standards that reflect the characteristics of that area and the vision for its future. This overlay zone has the advantage of allowing the county to fine-tune both the uses and development standards within each Character Area. Uses that are prohibited in the underlying zones will remain prohibited in the overlay; uses that are otherwise permitted in the underlying zones, however, may be either permitted or prohibited in the overlay.

The Eastgate Trust is the owner of nine properties along the north side of Bladensburg Road in the town of Cottage City, upon which were located industrial buildings that have been in existence and occupied consistently for almost 50 years. At the time that the Port Towns Sector Plan and comprehensive rezoning was initiated, the buildings were well-maintained and almost fully leased. The existing zoning for all of the Trust's properties was I-1, a light industrial zone, and all of the uses in the buildings were permitted by right.

These properties, however, were included within the DDOZ for the Port Towns Plan, within the Bladensburg Road Gateway/Main Street Character Area of the overlay, and were proposed to be rezoned from the I-1 to the M-X-T zone. While industrial uses were generally permitted within the M-X-T zone, the table of uses for this particular Character Area specifically *excluded* the following: "Where not otherwise specifically permitted, any use allowed in the I-1 zone (excluding those permitted by Special Exception)."

The property owner was obviously extremely worried about this proposal. While many of the tenants in the buildings were stable and had been there for many years, there was, of course, a certain amount of turnover and leasing was becoming more difficult. If this proposed ban on industrial uses in this Character Area was to go into effect, the existing uses within the buildings upon these properties would become grandfathered, or in zoning parlance, would become "nonconforming uses."

Within Prince George's County, a nonconforming use runs with the land, i.e. it is allowed to continue to operate even if the owner or occupant change, but it can be lost if it is discontinued for more than 180 consecutive days. The use that is grandfathered, however, is only that specific use which was in existence on the date that the new zoning went into effect.

If, for example, the permit for a use in one of the buildings at the time the new zoning was imposed was for the storage and sale of kitchen cabinets, and that user left the property, the owner could only lease the property to another party who would also store and sell kitchen cabinets—it could not be expanded to the storage and sale of other types of materials.

By requiring the continuation of the specific use upon the rezoned property to maintain the industrial use of that property, the owner is obviously severely constrained in its ability to lease that building to other users. At the very least, it is likely to take far more time to obtain a new user within that building, which greatly increases the likelihood of long periods of vacancies within those buildings, along with the possibility of losing the use altogether if the vacancy continues for more than six months.

As with the Landover Gateway Plan, the Port Towns Plan itself did not anticipate that a redevelopment of these properties to a mixed use project would occur for a period of years (at least six years in this case), but the owner believed that it would be far longer before there would be a market for mixed use development at this location.

By utilizing the Development District Overlay Zone in the Port Towns Plan, however, there was a greater degree of flexibility for all parties in attempting to deal with this potential problem. The use table for each Character Area within the overlay zone was merely a proposal, subject to revisions prior to its final adoption.

Ultimately, both the town of Cottage City and the county recognized that the potential of long periods of vacancies within the buildings upon these properties would have a negative impact not only on the neighborhood in which they are located, but also on the tax revenue generated by these properties.

The proposed prohibition against industrial uses within that Character Area was amended to instead allow those industrial uses to continue to be permitted by right—even though the properties were still rezoned to the M-X-T zone. The owner saw the potential for a redevelopment of those properties to a mixed use project when a market for such a project arose, and was thus pleased that this remained a possibility—while being able to maintain the economic potential of its properties in the interim period.

ADJUSTING THE REDEVELOPMENT VISION TO MARKET REALITY

In both the Landover Gateway Plan and the Port Towns Plan, the county proposed mixed use zoning on certain properties within the plan areas, which it believed would eventually result in mixed use development upon those properties.

In the Landover Gateway Plan, however, the lack of an overlay zone resulted in an all or nothing proposition—if the county was to obtain its desired M-X-T zoning upon the shopping center property, there was simply no ability to modify the terms or conditions of that zone to allow the shopping center to make improvements or additions until the market for a mixed use project arose.

With the addition of the Development District Overlay Zone in the Port Towns Plan, on the other hand, the county could achieve its goal of a mixed use zone upon the property, while still allowing the property owner the necessary flexibility to maintain the economic viability of its properties until a market for mixed use development appeared.

HURDLES IN THE IMPLEMENTATION OF MIXED USE DEVELOPMENT

Once a property is zoned for mixed use development, a market has been found to exist for this type of development at this location, and the owner/developer has obtained financing to implement the development, not all the hurdles for mixed-use development have been cleared, however.

In a D-M-Z zoned property, the county now requires the submission and approval of a detailed site plan (DSP) for the development prior to the issuance of permits. The DSP must include not only the exact location and dimensions of the proposed uses on the property, but also the architecture for the proposed buildings.

A number of contentious issues will often arise through this process, which will convert the theoretical mixed use development in a sector plan to a real community and which must ultimately create a community that not only satisfies those who will live and work there, but that will also provide a reasonable profit to the developer.

THE GATEWAY ARTS DISTRICT

An example of certain issues that can arise during the implementation of a mixed use development occurred during the DSP review process for Arts District Hyattsville. This property is located within the area of the Gateway Arts District Sector Plan and Sectional Map Amendment, which was approved by the District Council in 2004.

This plan generally included the Route 1 Corridor from the District of Columbia border to the northern boundary of the city of Hyattsville, and included not only Hyattsville, but also the municipalities of Mount Rainier, Brentwood, and North Brentwood, all located within the county's Developed Tier.

Within the city of Hyattsville, the Lustine automobile dealership owned approximately 25 acres on both the east and west sides of Route 1, but its property had been vacant for a number of years. In 2004, there were very few active commercial businesses along Route 1 in the city (with the notable exception of the lively Franklin's Restaurant and Brewery on the southern end of Route 1 in the city), and the residential portion of the city was located west of the commercial strip along Route 1.

The Lustine property was rezoned to the M-U-I (Mixed Use-Infill) zone through the Gateway Arts District Plan, and EYA, an urban infill developer based in Bethesda, Maryland, became the contract purchaser of those properties—the first project for this developer in Prince George's County.

The site plan for this proposed community (Arts District Hyattsville) was ultimately approved to include 124 residential townhomes, 13 live/work townhomes, and the conversion of the original Lustine dealership building to a 6,000 square foot community building, all on the west side of Route 1 (West Village); and 220 residential townhomes, 4 live/work townhomes, 246 condominium units, and 38,000 square feet of restaurant and retail space on the east side of Route 1 (East Village).

The plans for this development, which were ultimately approved, were praised as an excellent example of mixed use development. The process to obtain those approvals, however, was not without controversy, as shown in the following examples:

Townhouse designs. The developer proposed three different widths of townhomes in the West Village—14-foot, 16-foot, and 18-foot. The city (which could make recommendations only; final zoning decision were made by the District Council) opposed the 14-foot townhomes, believing that this would attract more of a transient population, not the type of families that it felt would ultimately stay in the city after they had outgrown the townhome.

The developer believed that this would be a very popular design and that the range of widths for the townhomes, which also resulted in a wider range of prices, was likely to attract not only families, but also young couples and young single professionals who would be more likely to afford the more cost-effective housing.

While the city never backed away from its opposition to the 14-foot townhomes, the Planning Board (and ultimately, the District Council) agreed with the developer, and approved the 14-foot units, along with the other two widths as well. This philosophical clash illustrates the fact that the city retained a more "suburban" mindset for this development, i.e., one emphasizing families as residents, while the objective of the project was really to create a more "urban" atmosphere, which would aim to attract residents with a wide range of lifestyles.

Retail Location and Size. The developer originally proposed a total of 25,000 square feet of retail commercial and restaurant uses, which was to be clustered in the southern portion of the East Village, since that would be closer to other existing commercial properties just south of the development.

Many of these existing commercial properties were vacant at the time that the approval process for Arts District Hyattsville was taking place, but the hope was that with a new and active commercial area in the East Village, there would be a greater incentive to redevelop the older commercial properties as well.

When this was proposed, however, the city believed that the East Village commercial district was not large enough and wanted to instead see a much larger commercial area. The city's position was not based upon any retail studies or projections, simply its belief that the proposed retail/restaurant commercial space was not large enough to create the type of mixed use development that it had envisioned, especially in the context of the proposed number of residential units for this development.

The developer, on the other hand, was concerned that there would be insufficient market support for even the 25,000 square feet proposed, let alone a larger area. In the interest of compromise, however, the developer did agree to enlarge the retail/restaurant commercial area to approximately 35,000 square feet (plus another 3,000 square feet in the live/work units).

When the city continued to argue for a larger area, the developer had to state to the city and the planners that the proposed enlargement to 35,000 square feet (not including the live/work units) was as far as it could go, both because commercial development in excess of that area would generate traffic beyond a maximum amount of peak hour trips that had been previously determined; and also that it could simply not obtain financing for anything larger.

Furthermore, the developer also argued that if there truly was a market for more retail and/or restaurant space in the area, the significant amount of vacant commercial space already existing in the buildings just south of the newly-proposed retail area could be redeveloped for this purpose, and might ultimately provide a greater benefit to the city. The County Planning Board and District Council did eventually approve the developer's proposal of 35,000 square feet for its commercial area.

This is an example of a situation in which the city's philosophy and perception of the mixed use project collided with the developer's proposal, which was necessarily dependent on market evaluation and financing. Ultimately, the developer pushed the envelope to propose more retail/restaurant space than it believed could be "comfortably" accommodated, while the city got less retail/restaurant space than it believed was necessary to create the type of mixed use project that it had envisioned. This portion of the development has not yet been constructed, so it remains to be seen how well this may work.

CONCLUSIONS

Mixed use development is a wonderful planning concept for neighborhoods in need of redevelopment and revitalization, that have an urban character, and/or are located near major transportation nodes. Such a development has the potential to attract a variety of demographic groups, including young single professionals, families, and empty-nesters, who are likely to be searching for a vital community where they can know their neighbors, live near stores and restaurants, and have pedestrian and bicycle trails as well as other recreational areas within walking distance of their homes, all to give them the feeling that they are truly connected to that community.

However, while the local government may well believe that this type of development is appropriate and desired in certain areas, and may decide to zone properties for this purpose through a comprehensive rezoning, that desire imposed through planning and zoning *will not create a market for this development, and without market demand, financing will not be available, and it will not be constructed.*

Master plans, comprehensive rezonings, and similar planning documents are important tools for communities to express and, to whatever degree possible, direct a vision for its future development patterns. It is important, however, for planners and public officials to recognize the reality that the market for a mixed use project may not appear until years after the property is zoned as such.

To bridge that gap, local *zoning ordinances should allow for not only the continuation of existing uses on the property (as they generally do), but also for the growth and improvement of those uses.* It is certainly not in the best interest of the government or its citizens for properties to fall into disrepair, and there is a greater chance that this may occur if the owner lacks the right and/or the economic incentive to maintain, improve, and even expand the uses upon such properties.

The actions of the Planning Board and District Council regarding the Landover Crossing Shopping Center demonstrated their belief that mixed use development was not likely to occur on that property unless the property was zoned for that purpose.

With regard to the Eastgate Trust properties, on the other hand, those same bodies clearly felt that there was at least a reasonable likelihood that the owner would redevelop those properties when a market for mixed use arose in that area, but they also recognized that it was important to maintain the economic viability of those properties until then. This approach is clearly preferable to that in the Landover Crossing scenario.

A mixed use development can not be forced. Unless banks or other financial institutions are satisfied that there is sufficient market demand to create a successful project of this nature, it will not be developed or constructed. When it is clear that a market for the proposed mixed use development will not arise for a number of years, and especially when the master or sector plan itself makes that projection, the zoning regulations should reflect that reality, allowing the existing buildings and uses on properties that are rezoned to a mixed use zone to continue to be economically viable during that interim period.

By providing for not only a continuation of existing uses, but also for growth and possible expansion, property owners will have the incentive to maintain economically pro-

ductive properties, which will, in turn, benefit the local government and its citizens.

Once the market justifies the proposed redevelopment to a mixed use community, and plans are put forward to implement this concept, it will not be a matter of simply applying the legal and other regulatory requirements of the zoning ordinance and other relevant documents. Instead, the process will become collaborative, involving government planners, local citizens, and elected officials who will all begin to formulate both objective and subjective impressions of the plans, and who will all undoubtedly have comments, positive and negative, which are often based on their own particular expectations for the proposed community.

It is at this juncture that the applicant and its consultants will begin the arduous task of working with each of the parties involved to clarify and address, to the extent reasonably possible, their various concerns. In the end, the desired result will be general agreement as to the mix of uses proposed, the architectural features, the recreational facilities, and all other issues that will collectively comprise the mixed use development.

This, hopefully, will result in governmental approval of a plan which, when implemented, will create a development that is aesthetically pleasing, environmentally sensitive, and will generally provide a pleasant community for its residents—and one that is also profitable to the developer. While simple and straightforward in theory, planning and zoning for such outcomes can be difficult to achieve in practice.

NOTES:

[1]A new mixed use zone is currently under consideration but has not yet been approved. This new zone is proposed to incorporate a form-based code, which is intended to bring a greater degree of certainty to the design elements of a mixed use development.